

# EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

## PROJECT TITLE:

An Ordinance terminating the Amended Development Agreement with Rockefeller Avenue LLC for property on the east side of Rockefeller Avenue between 26<sup>th</sup> Street and Everett Avenue, amending Section 1-5 of Ordinance No. 2847-05

<u>2/3/16</u>	Briefing
<u>          </u>	Proposed Action
<u>          </u>	Consent
<u>          </u>	Action
<u>2/3/16</u>	First Reading
<u>2/10/16</u>	Second Reading
<u>2/17/16</u>	Third Reading
<u>2/17/16</u>	Public Hearing

COUNCIL BILL # CB1601-03

Originating Department	<u>Planning</u>
Contact Person	<u>Allan Giffen</u>
Phone Number	<u>(425) 257-8725</u>
FOR AGENDA OF	<u>February 3, 2016</u>
	<u>February 10, 2016</u>
	<u>February 17, 2016</u>

Initialed by:

Department Head

CAA

Council President

db  
82

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
East side of 2600 block of Rockefeller Avenue	Ordinance No. 2847-05; Development Agreement, April 2006	Ordinance; Planning Commission minutes January 5, 2016	Planning, Legal

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

## DETAILED SUMMARY STATEMENT:

In 2005, the City Council approved an amendment to the comprehensive plan land use map and a rezone for a specific multi-family building proposal on the east side of the 2600 Block of Rockefeller (see attached vicinity map). The property was rezoned to R-5 (Core Residential), and the City and applicant entered into a Development Agreement tied to the specific building design. The reason for the Development Agreement was that the Planning Commission and City Council did not feel that the multiple family development standards that existed at the time were well-suited for properties in the core residential area, and were geared for more suburban style developments.

In 2006, the City Council approved an amendment to the Development Agreement (attached) based on a change in the design of the proposed building. The building has never been built.

In 2008, the City Council adopted the Core Area Residential Standards that apply specifically to the neighborhoods surrounding the downtown. These standards are designed for the north Everett block and lot patterns. The Core Area standards are codified in Chapter 33G of the Zoning Code. The Planning Commission held a public hearing on January 5, 2016, and has recommended that the City Council authorize the Mayor to execute an agreement with RAL to terminate the development agreement.

## RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance terminating the Amended Development Agreement with Rockefeller Avenue LLC for property on the east side of Rockefeller Avenue between 26<sup>th</sup> Street and Everett Avenue, amending Section 1-5 of Ordinance No. 2847-05.

**Ordinance No. \_\_\_\_\_**

**An Ordinance terminating the Amended Development Agreement with Rockefeller Avenue LLC for property on the east side of Rockefeller Avenue between 26<sup>th</sup> Street and Everett Avenue, amending Section 1-5 of Ordinance No. 2847-05.**

WHEREAS, the City Council finds the following:

1. Ordinance No. 2847-05 rezoned property located on the east side of Rockefeller Avenue between 26<sup>th</sup> Street and Everett Avenue from R-4 (Multiple Family High Density) to R-5 (Core Residential) with a development agreement between the City and Rockefeller Avenue LLC (RAL) allowing for the development of a building with 40 multiple-family dwelling units, subject to a number of conditions related to the design of the proposed structure in order to promote greater compatibility with the surrounding neighborhood;
2. The original development agreement was amended by the City Council with a revised building plan in 2006;
3. The property has not developed since the original rezone action and execution of the development agreement and the subsequent amended development agreement;
4. In 2008, the City Council adopted Ordinance No. 3072-08 establishing the Core Area Residential Standards for housing within the area surrounding downtown Everett, including the block in which the subject property is located;
5. The Core Area Residential Standards address site and building design standards for the entire area that better address design compatibility with the surrounding development than previous design regulations;
6. RAL has acquired additional contiguous property to include in a residential redevelopment proposal;
7. RAL wishes to change the design of the structure to a different configuration than required by the amended development agreement;
8. RAL wishes to design a building that meets the requirements of the 2008 Core Residential Area Standards and to void the Development Agreement;

And;

WHEREAS, the City Council concludes:

1. The building plan in the amended development agreement does not conform with the larger amount of land RAL has assembled in the subject block;
2. The Core Area Residential Standards have improved the quality of the City's design-related land use regulations in the subject area;

3. The revocation of the applicable development agreement for a portion of the property assembled by RAL is justified by:
  - a. the increased size of the ownership;
  - b. the improved design standards now applicable to the subject area and surrounding neighborhood;
4. the changes proposed to Ordinance No. 2847-05 and revocation of the amended development agreement:
  - a. are consistent with the applicable policies of the comprehensive plan;
  - b. bears a substantial relation to public health, safety or welfare; and
  - c. promotes the best long-term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAINS:

**Section 1.** Section 1 of Ordinance No. 2847-05, which reads as follows:

Approval.

1. That the Comprehensive Plan land use map for the area depicted in Exhibit B-1 and described under Exhibit "E" is herein amended from Multi Family – High Density (1.7) to Multi Family – Core Residential (1.8).
2. That the subject area depicted in Exhibit B-2 is herein rezoned from R-4 (Multiple Family High Density) to R-5 (Core Residential) subject to a Development Agreement attached hereto as Exhibit "F".
3. That the Planning Department is instructed to amend the Comprehensive Plan map and Zoning maps to reflect the noted amendment and rezone.

**Is hereby amended to read as follows:**

1. That the Comprehensive Plan land use map for the area ~~depicted in Exhibit B-1 and described under Exhibit "E"~~ is herein legally described in this section is hereby amended from Multi Family – High Density (1.7) to Multi Family – Core Residential (1.8).
2. That the subject area legally described in this section is hereby ~~depicted in Exhibit B-2 is herein~~ rezoned from R-4 (Multiple Family High Density) to R-5 (Core Residential) subject to a Development Agreement attached hereto as Exhibit "F".
3. That the Planning Department is instructed to amend the Comprehensive Plan map and Zoning maps to reflect the noted amendment and rezone.

Legal Description:

That portion of Section 20, Township 29 North, Range 5 East, SW quarter, more particularly described as follows:

Lots 1 through 12 inclusive of Block 610, Plat of Everett, including all public right-of-way located between said lots and the centerline of abutting rights-of-way. Situate in the City of Everett, County of Snohomish, State of Washington.

**Section 2.** Section 2 of Ordinance No. 2847-05, which reads as follows:

1. A development agreement shall be used to ensure the structure proposed by the applicant will in fact be built and shall appear substantially as depicted in the attached Exhibits. Guidance for the implementation of the Development Agreement will come from graphic depictions of the proposed project as shown in Exhibits “D” and “E.”
2. The Development Agreement attached here is portable to other property owners in the rezone area. They may either enter into a copy Agreement with the City or they may develop or redevelop using R-4 zoning, which ever option best suits their need.
3. Historic overlay standards will be used by staff in review of permit submittals. In addition the following conditions shall apply:
  - a. The building may be set back 1.5 feet from the front (west) property line.
  - b. The east edge of the building along the alley may be set back 0 feet.
  - c. Minor deviations from the drawing (Exhibit “D”) are allowed so long as they preserve the overall theme, colors and details shown in the Exhibits, subject to approval by the Planning Director.
  - d. No step back at the north and south ends of the building are necessary at a building height of 35 feet or higher.
  - e. Step backs along the front and rear sides of the building (east and west sides) may have minor modifications, subject to review and approval of the Planning Director.
  - f. The significant tree near the center of the project is encouraged to be kept and have minor trimming, as necessary by the owner.
4. Exhibits “A,” “B-1,” “B-2,” “C,” “D,” “E,” and “F” are hereby made part of this approval and incorporated herein by reference.
5. Other properties within the rezone area shall develop to the Historic Overlay Standards through administration of Review Process II.

**Is hereby repealed.**

**Section 3.** Section 3 of Ordinance No. 2847-05, which reads as follows:

**Development Agreement.**

That the rezone action as described herein shall be implemented through the execution of the Development Agreement attached hereto as Exhibit “F”, and incorporated herein by reference. The Mayor is hereby authorized to sign the Development Agreement.

**Is hereby repealed.**

**Section 4.** Section 4 of Ordinance No. 2847-05, which reads as follows:

That the rezone authorized herein shall become effective at such time as the Development Agreement attached hereto as Exhibit “F is fully executed and the Ordinance amending the land use map for the subject property from Multi-Family – High Density (1.7) to Multi Family – Core Residential (1.8) becomes effective.

**Is hereby repealed.**

**Section 5.** The Mayor is hereby authorized to execute an agreement with RAL to terminate the amended development agreement.

**Section 6.** The City shall record a legal instrument with the Snohomish County Auditor’s Office acknowledging the termination of the development agreement and releasing the property owner of any obligations required under the previous development agreement recorded on property owned by RAL within the area legally described in Section 1 of this ordinance.

**Section 7: Severability.** Should any section, subsection, sentence, clause, phrase or word of this Ordinance be held to be invalid or unconstitutional by a court of competent jurisdiction, or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 8: Conflict.** In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

**Section 9: Corrections.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

**Section 10: General duty.**

It is expressly the purpose of this ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. It is the specific intent of this ordinance that no provision nor any term used in this ordinance is intended to impose any duty whatsoever upon the city or any of its officers or employees. Nothing contained in this ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this ordinance by its officers, employees or agents.

**Section 11: Savings.**

The enactment of this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or before the City or in any way modify any obligation, right or liability, civil or criminal, which may exist by virtue of any of the ordinances herein amended.

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**RAY STEPHANSON, Mayor**

**ATTEST:**

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**City Clerk**

**Passed:**

**Valid:**

**Published:**

**Effective Date:**



**Planning Commission  
Meeting Minute Excerpts  
Zlab Development Agreement  
January 5, 2016**



**Item 2: Public Hearing: Consider termination of the Development Agreement between the City and Rockefeller Avenue LLC (Joe Zlab) for property located on the east side of the 2600 block of Rockefeller Avenue.**

Allan Giffen, Planning Director, presented a vicinity map of the subject site. In 2005, a comprehensive plan amendment and rezone was approved which changed the zoning from R-4 to R-5 subject to a development agreement with a specific building plan. In 2006, an amended development agreement was approved. That development wasn't constructed. In 2008, the City adopted the Core Area Residential Design and Development Standards for the neighborhoods surrounding the downtown area.

Mr. Giffen stated that the applicant acquired more property after the development agreement was amended. The applicant is proposing to construct a different building than what was approved under the development agreement. The request is to terminate the development agreement and use the core area residential design and development standards that apply to the area.

Mr. Giffen presented a map of the area where the core area residential design standards apply. The development standards include a maximum building height of 65 feet, and address building setbacks, pedestrian and vehicular access, parking location, open space, building design, landscaping, screening, and fencing. Staff determined that the core area residential design and development standards were better than what was in the development agreement.

Commission Discussion

Commissioner Beck asked Mr. Giffen if the amended development agreement superseded the original agreement. Mr. Giffen responded that he would review with the City's Legal Department.

Commissioner Jordison asked what the FAR standard was for the core area. Mr. Giffen responded that there wasn't a Floor Area Ratio (FAR) standard that applied to the core residential area and that building bulk was governed by building height and setbacks, permitted density, and parking.

Commissioner Zelinski asked Mr. Giffen if any buildings had been constructed since the core area residential design and development standards were adopted. Mr. Giffen wasn't aware of any.

Commissioner Adams referred to Section 2.6 of the amended agreement which addressed Commissioner Beck's question on superseding the agreement which appeared to terminate the original agreement.

Citizen Comments

None

**Motion:** Commissioner Adams made a motion to close the public hearing. Commissioner Tisdell seconded the motion.

**Vote:** Commissioner Zelinski, yes; Commissioner Beck, yes; Commissioner Tisdell, yes; Commissioner Jordison, yes, Commissioner Adams, yes; and Chair Holland, yes.

**Motion Carried.**

Chair Holland asked if there was anything in the development agreement that wouldn't be addressed under the core area residential design and development standards. Mr. Giffen responded no.

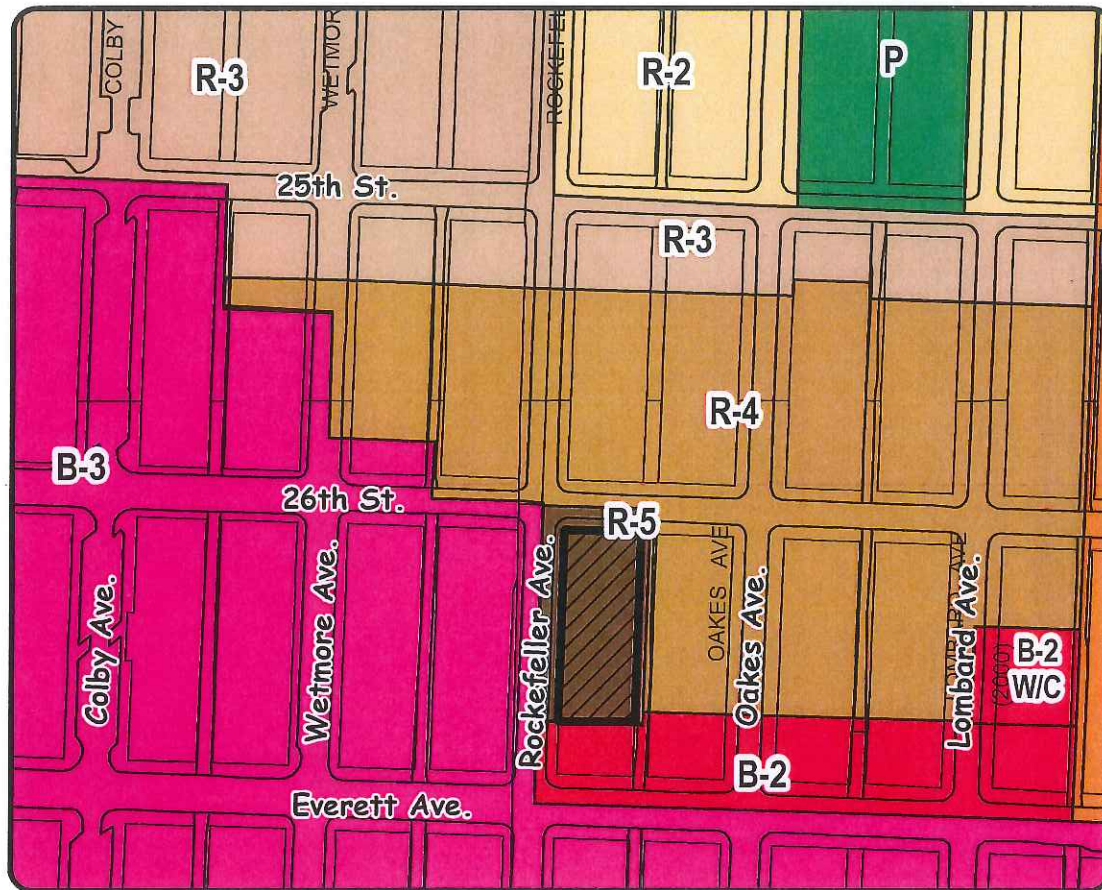
**Motion:** Commissioner Jordison made a motion to approve the resolution recommending that the City Council authorize the Mayor to execute an agreement terminating the amended development agreement between the City of Everett and Rockefeller Avenue LLC. Commissioner Beck seconded the motion.

**Vote:** Commissioner Zelinski, yes; Commissioner Beck, yes; Commissioner Tisdell, yes; Commissioner Jordison, yes, Commissioner Adams, yes; and Chair Holland, yes.

**Motion Carried.**



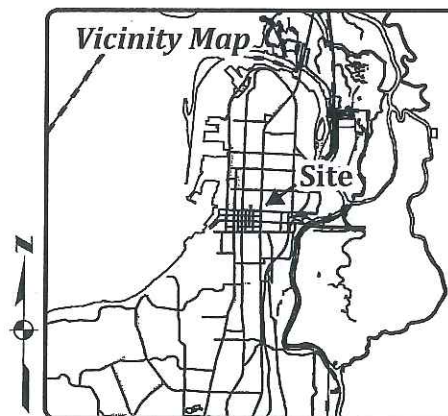
# **Proposal: Terminate Development Agreement Between the City of Everett and Rockefeller Ave LLC**



**Current Zoning = R-5 Core Residential**

## **Zoning Legend:**

- B-2 Community Business
- B-3 Central Business District
- PARK
- R-2; Single Family, Med. Density
- R-3; Multi-Family, Med. Density
- R-4 Multi-Family, High Density
- R-5 Core Residential



Scale: 1 inch = 300 feet  
Dec. 15, 2015